

103D CONGRESS
1ST SESSION

S. 481

To amend the National Labor Relations Act to give employers and performers in the live performing arts the same rights given by section 8(f) of such Act to employers and employees in the construction industry, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 2 (legislative day, JANUARY 5), 1993

Mr. SIMON (for himself, Mr. AKAKA, Mr. BRADLEY, Mr. BYRD, Mr. CONRAD, Mr. D'AMATO, Mr. DODD, Mr. EXON, Mr. HARKIN, Mr. KERRY, Mr. LAUTENBERG, Mr. LEVIN, Mr. LIEBERMAN, Mr. METZENBAUM, Mr. MOYNIHAN, Mr. MURRAY, Mr. PELL, Mr. ROCKEFELLER, Mr. SARBANES, Mr. SASSER, Mr. WELLSTONE, Mr. WOFFORD, Mr. HATFIELD, Mr. INOUE, and Ms. MIKULSKI) introduced the following bill; which was read twice and referred to the Committee on Labor and Human Resources

A BILL

To amend the National Labor Relations Act to give employers and performers in the live performing arts the same rights given by section 8(f) of such Act to employers and employees in the construction industry, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Live Performing Art-
3 ists Labor Relations Act”.

4 **SEC. 2. EXTENDING SECTION 8(f) TO THE LIVE PERFORM-**
5 **ING ARTS INDUSTRY.**

6 Section 8(f) of the National Labor Relations Act (29
7 U.S.C. 158(f)) is amended—

8 (1) by redesignating clauses (1) through (4) as
9 clauses (A) through (D), respectively;

10 (2) by inserting “(1)” after “(f)”;

11 (3) by striking “clause (1)” and inserting
12 “clause (A)”; and

13 (4) by adding at the end the following:

14 “(2) It shall not be an unfair labor practice under
15 subsections (a) and (b) of this section for an employer who
16 hires persons or contracts for the services of persons en-
17 gaged in the live performing arts to make an agreement
18 covering such persons who are engaged (or who, upon
19 their employment, will be engaged) in the live performing
20 arts with a labor organization of which performing artists
21 are members (not established, maintained, or assisted by
22 an action defined in section 8(a) of this Act as an unfair
23 labor practice) because (A) the majority status of such
24 labor organization has not been established under the pro-
25 visions of section 9 of this Act before the making of such
26 agreement; or (B) such agreement requires as a condition

1 of employment membership in such labor organization
 2 after the seventh day following the beginning of such em-
 3 ployment or the effective date of the agreement, whichever
 4 is later: *Provided*, That nothing in this subsection shall
 5 set aside the final proviso of section 8(a)(3) of this Act:
 6 *Provided further*, That any agreement which would be in-
 7 valid, but for clause (A) of this paragraph, shall not be
 8 a bar to a petition filed pursuant to section 9(c) or 9(e).”.

9 **SEC. 3. TECHNICAL AND CONFORMING AMENDMENTS.**

10 (a) DEFINITION OF “EMPLOYER”.—Section 2(2) of
 11 the National Labor Relations Act (29 U.S.C. 152(2)) is
 12 amended by inserting after “directly or indirectly,” the fol-
 13 lowing: “and includes any person who is the purchaser of
 14 live musical performance services regardless of whether
 15 the performer of such services is an independent contrac-
 16 tor, employer, or employee of another employer,”.

17 (b) DEFINITION OF “EMPLOYEE”.—Section 2(3) of
 18 the Act (29 U.S.C. 152(3)) is amended by inserting after
 19 “independent contractor” the following: “except that any
 20 individual having such status who is engaged to perform
 21 live musical services (other than an employer of persons
 22 performing musical services) shall be included in the term
 23 ‘employee’”.

1 **SEC. 4. CONSTRUCTION FOR INTERNAL REVENUE CODE**
2 **PURPOSES.**

3 Nothing in the amendments made by this Act shall
4 be construed as affecting the treatment of individuals (as
5 employees or independent contractors) covered by such
6 amendments for purposes of the Internal Revenue Code
7 of 1986 or for purposes of other laws.

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